

Message Text

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ACTION OPIC-12

INFO OCT-01 AF-10 ISO-00 EB-11 AID-20 L-03 COME-00 TRSE-00

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P 031151Z JUN 74

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC PRIORITY 7310

LIMITED OFFICIAL USE NAIROBI 4526

FOR OPIC

E.O.: 11652 N/A

TAGS: EFIN, KE

SUBJ: ATWELL DEVELOPMENT CO. AND MARISHAL TEA ESTATE

REF: STATE 109865

1. ATUSLL TODAY APPLIED FOR CONVERSION INTO DOLLARS AND TRANSFER OUT OF KENYA OF 7, "33,1,050,000 KENYA SHILLINGS (U.S. DOLLARS 146,997 AT OFFICIAL RATE 7.143 SHILLINGS PER DOLLAR). IN SUPRISIINGLY FAST ACTION WHICH INDIATES GOK RESPONSE HAD ALREADY BEEN DECIDED, CENTRAL BANK IMMEDIATELY APPROVED TRANSFER OF 626,289 KENYA SHILLINGS (U.S. DOLLARS 87,679) AND DIRECTED THAT THE REMAINDER , OR 423,711 KENYA SHILLINGS (U.S. DOLLARS 59,319), BE PLACED IN A BLOCKED ACCOUNT.

2. THE 626,289 KENYA SHILLINGS APPROVED FOR TRANSFER EXACTLY EQUAL TO ATWELL'S DOLLAR INVESTMENT WHICH IS COVERED BY CERTIFICATE OF APPROVED ENTERPRISE AS AMENDED (SEE NAIROBI'S 4212). THE REMAINDER WHICH WAS NOT APPROVED FOR TRANSFER REPRESENTS APPRECIATION.

3. BECAUSE OF GOK ACTION, ATWELL HAS FILED INCONVERTIBILITY CLAIN WITH EMBASSY FOR 423,711 KENYA SHILLINGS ALTHOUGH A SMALL PORTION OF THIS AMOUNT WILL BE USED TO COVER HIS LOCAL EXPENSES DURING LIMITED OFFICIAL USE

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APPROXIMATE ONE WEEK HE PLANS TO REMAIN IN KENYA.

4. PER ADVICE OPIC VP GREGG, EMBASSY HAS RECOMMENDED THAT ATWELL RETAIN THE 423,711 KENYA SHILLINGS IN A REGULAR BANK ACCOUNT UNTIL WE NOTIFY HIM OF FURTHER ACTION TO TAKE. REGULAR ACCOUNT WILL BE MORE EASILY ACCESSIBLE TO U.S. GOVERNMENT THAN WOULD BLOCKED ACCOUNT.

5. PLEASE INSTRUCT EMBASSY OF NEXT STEPS TO TAKE.

6. SPECIFIC QUESTIONS CONTAINED IN STATE 109865 ANSWERED BELOW:

- A. EMBASSY RECOMMENDED TO ATWELL THAT HE APPLY FOR TRANSFER OF ENTIRE AMOUNT. GOK RESPONSE OUTLINED ABOVE.
- B. ON AUGUST 24, 1967 KENYAN LAW SAME AS AT PRESENT, I.E., CENTRAL BANK CAN PERMIT OR DENY TRANSFER OF MONES NOT COVERED BY CERTIFICATE OF APPROVED ENTERPRISE AT ITS DESCRETION, DECISIONS BEING MADE ON A CASE BY CASE BASIS. IN PRACTICE, IN 1967 TRANSFER OF PROCEEDS REPRESENTING APPRECIATIONS ROUTINELY AUTHORIZED. WITH PRESENT FOREIGN EXCHANGE RESERVE DIFFICULTIES, GOK NOW GENERALLY HIRECTING THAT APPRECIATION BE PLACED IN A BLOCKED ACCOUNT.
- C. EMBASSY ATTEMPTING TO OBTAIN INFORMATION AVERAGE TIME DELAY IN EFFECTING THE LIQUIDATION OF A BLOCKED ACCOUNT.
- D. GOK EXCHANGE CONTROL MUST BE CONSIDERED BONA FIDE AS SANCTIONED UNDER ARTICLE XIV OF INTERNATIONAL MONETARY FUND CHARTER.

7.0OPIC LETTER TO ATWELL AND EMBASSY SPECIFYING DETAILS OF STEPS L TO BE TAKEN BY ATWELL UNDER OPIC CONTRACT NOT RECEIVED BY EITHER PARTY. PRIORITY TELEGRAPHIC RESPONSE REQUESTED. DECONTROL UPON RECEIPT. MARSHALL

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